BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JANICE GWEN STILKEY P O Box 1438 Sugarloaf, CA 92386

Registered Nurse License No. 256695

Respondent

Case No. 2012-207

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 17, 2012.

IT IS SO ORDERED July 17, 2012.

Erin Niemela

Board of Registered Nursing

Department of Consumer Affairs

State of California

I			
1	KAMALA D. HARRIS		
2	Attorney General of California MARC D. GREENBAUM		
3	Supervising Deputy Attorney General CHRISTINA THOMAS		
4	Deputy Attorney General State Bar No. 171168		
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013		
6	Telephone: (213) 897-2557 Facsimile: (213) 897-2804		
7	Attorneys for Complainant		
	BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS		
8			
9	STATE OF CALIFORNIA		
10			
. 11	In the Matter of the Accusation Against: Case No. 2012-207		
12	JANICE GWEN STILKEY P.O. Box 1438		
13	Sugarloaf, CA 92386 Registered Nurse License No. 256695 STIPULATED SURRENDER OF LICENSE AND ORDER		
14	Respondent.		
15.			
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17	IT IS HEREBY STIPULATED AND AGREED by and between the parties in this		
18	proceeding that the following matters are true:		
19	<u>PARTIES</u>		
20	1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of		
21	Registered Nursing (Board.) She brought this action solely in her official capacity and is		
22	represented in this matter by Kamala D. Harris, Attorney General of the State of California, by		
23	Christina Thomas, Deputy Attorney General.		
24	2. Janice Gwen Stilkey (Respondent) is representing herself in this proceeding and has		
25	chosen not to exercise her right to be represented by counsel.		
26	3. On or about July 31, 1975, the Board of Registered Nursing issued Registered Nurse		
27	License No. 256695 to Janice Gwen Stilkey. The Registered Nurse License will expire on		
28	February 28, 2013, unless renewed.		

JURISDICTION

4. Accusation No. 2012-207 was filed before the Board of Registered Nursing,
Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
and all other statutorily required documents were properly served on Respondent on October 5,
2011. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of
Accusation No. 2012-207 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

- Respondent has carefully read, and understands the charges and allegations in
 Accusation No. 2012-207. Respondent also has carefully read, and understands the effects of this
 Stipulated Surrender of License and Order.
- 6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 8. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Registered Nurse License without further process.
- 9. Respondent admits the truth of each and every charge and allegation in Accusation No. 2012-207, and agrees that cause exists for discipline and hereby surrenders her Registered Nurse License No. 256695 for the Board's formal acceptance.

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CONTINGENCY

- This stipulation shall be subject to approval by the Board of Registered Nursing. 10. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- The parties understand and agree that facsimile copies of this Stipulated Surrender of 11. License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- This Stipulated Surrender of License and Order is intended by the parties to be an 12. integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.
- In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 256695, issued to Respondent Janice Gwen Stilkey, is surrendered and accepted by the Board of Registered Nursing.

The surrender of Respondent's Registered Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent.

This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Registered Nursing.

- 15. Respondent shall lose all rights and privileges as a Registered Nurse in California as of the effective date of the Board's Decision and Order.
- 16. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.
- 17. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 2012- 207 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.
- 18. Respondent shall not apply for licensure or petition for reinstatement for two years from the effective date of the Board of Registered Nursing's Decision and Order.

COST RECOVERY

19. If and when Respondent's license is reinstated, she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$1,480.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 12 - 28 - 11

JANICE GWEN STILKEY

Respondent

ENDORSEMENT The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs. Respectfully submitted, Dated: Kamala D. Harris Attorney General of California MARC D. GREENBAUM Supervising Deputy Attorney General Deputy Attorney General Attorneys for Complainant

Exhibit A

Accusation No. 2012-207

1 2 3 4 5 6 7 8	KAMALA D. HARRIS Attorney General of California MARC D. GREENBAUM Supervising Deputy Attorney General CHRISTINA THOMAS Deputy Attorney General State Bar No. 171168 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-2557 Facsimile: (213) 897-2804 Attorneys for Complainant		
	BEFORE THE BOARD OF REGISTERED NURSING		
9 (DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10			
11	In the Matter of the Accusation Against: Case No. 2012 - 207		
12	JANICE GWEN STILKEY		
13	P.O. Box 1438 Sugarloaf, CA 92386 ACCUSATION		
14	Registered Nurse License No. 256695		
15	Respondent.		
16			
17	Complainant alleges:		
18	<u>PARTIES</u>		
19	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her		
20	official capacity as the Executive Officer of the Board of Registered Nursing, Department of		
21	Consumer Affairs (Board).		
22	2. On or about July 31, 1975, the Board issued Registered Nurse License No. 256695 to		
23	Janice Gwen Stilkey (Respondent). The Registered Nurse License will expire on February 28,		
24	2013, unless renewed.		
25	<u>JURISDICTION</u>		
26	3. This Accusation is brought before the Board under the authority of the following		
27 .	laws. All section references are to the Business and Professions Code unless otherwise indicated.		
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STATUTORY PROVISIONS

- Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
- A registered nurse license is a license issued under Division 2 and is subject to 5. Sections 820 and 822.
 - Section 820 states: 6.

"Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical-illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822."

Section 822 states: 7.

"If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- "(a) Revoking the licentiate's certificate or license.
- "(b) Suspending the licentiate's right to practice."
- "(c) Placing the licentiate on probation.
- Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper."

"The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated."

- 8. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
 - 9. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it. . . ."
- ——10.— Section 2764 provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight (8) years after the expiration.
 - 11. Section 2770.11 states:
- "(a) Each registered nurse who requests participation in a diversion program shall agree to cooperate with the rehabilitation program designed by the committee and approved by the program manager. Any failure to comply with the provisions of a rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.
- "(b) If the program manager determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the program manager shall report the name and license number, along with a copy of all diversion records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding."

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COST RECOVERY

12. Section 125.3 provides that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Unable to Practice Safely)

- 13. Respondent is subject to disciplinary action under section 822, in that Respondent is unable to safely practice as a registered nurse.
- 14. On or about April 20, 2011, the Board received correspondence from Respondent, dated April 26, 2010, self-terminating herself from the Board's Diversion Program (Program). Respondent informed the Board that she is on permanent disability, unable to cope, unable to mentally deal with the Program's many requirements, and unable to maintain her registered nurse license. Respondent provided the Board with a detailed seven (7) page medical evaluation, dated February 24, 2011, from her attending physician.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

15. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and / or (d), in that Respondent committed acts of unprofessional conduct and / or acts violating the Nursing Practice Act by failing to comply with and complete the Board's Diversion Program when she self-terminated from the Program. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 13 - 14, inclusive, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License No. 256695, issued to Janice Gwen Stilkey;

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. 1	2. Ordering Janice Gwen Stilkey to pay the Board the reasonable costs of the		
2	investigation and enforcement of this case, pursuant to section 125.3; and,		
3	3. Taking such other and further action as deemed necessary and proper.		
4	DATED: October 4, 2011	Louise L. Doiley	
5		LOUISE R. BAILEY, M.ED., RN Executive Officer	
6		Board of Registered Nursing Department of Consumer Affairs	
7		State of California Complainant	
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